IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 22.11.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.TAMILVANAN

Writ Appeal No.1522 of 2001

1.Sengoda Gounder(deceased)
S/o Chinnamuthu Gounder
Thagamtheerthapuram village
kallakurichi Taluk,
Villupuram District.

2.Valliammal
w/o late Sengoda Gounder

3.Periasamy
S/o late Sengoda Gounder

4.Rangasamy
S/o late Sengoda Gounder

5.Muthusamy
S/o late Sengoda Gounder

6.Jeyam
D/o late Sengoda Gounder
(Appellants 2 to 6 brought on record as L.Rs., of the deceased sole appellant vide order of Court dt.22,11,2006 made in WAMP Nos.1804 to 1806 of 2006. ... Appellants

Vs.

1.The State of Tamil Nadu,
rep. by its Secretary to Government,
Revenue Department,
Fort St. George, Madras-9.

2.The Special Commissioner and
Commissioner to Revenue Administration,
Chepauk, Madras.

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3.The District Revenue Officer,
Villupuram, Villupuram District. .. Respondents

Writ appeal filed under Clause 15 of the Letters Patent against the order dated 07.06.2001 made in W.P.No.10349 of 1994 to issue a writ of certiorari, calling for the records on the file of the 1st Respondent GO.Ms.No.191 dated 3.3.94 and quash the same.

For Appellants : Mr.V.Raghavachari
For respondents : Mr.P.Subramanian,
Government Advocate

JUDGMENT

(Judgment of the Court was delivered by P.SATHASIVAM, J.)

The above writ appeal is directed against the order dated 07.06.2001 made in W.P.No.10349 of 1994, in and by which, the learned single Judge has confirmed the order of the Government in G.O.Ms.No.191 Revenue (F.1) Department, dated 03.03.1994, and directed the third respondent-the District Revenue Officer, Villupuram, to identify three acres of land to which the petitioner is entitled to as per the Board Standing order.

2. Pending appeal, the sole appellant died and by an order dated 22.11.2006 in W.A.M.P.Nos.1804 to 1806 of 2006, his legal representatives were brought on record.

3. Heard the learned counsel appearing for the appellants as well as the learned Government Advocate for the respondents.

4. The only point for consideration in this appeal is whether the writ petitioner-now his legal representatives in writ appeal are entitled to the entire extent of 4.99 acres of land in Survey Nos.253/2 and 252/3 in Thagamtheerthapuram village, Kallakurichi Taluk, Villupuram District, by way of an assignment. It is true that initially the Tahsildar has granted assignment in respect of the entire extent. However, the third respondent-the District Revenue Officer, Villupuram District, after hearing all the parties concerned and based on the Board Standing Order, cancelled the assignment order passed by the Tahsildar and restricted the assignment only to an extent of 3 acres, which is in terms of Board Standing Order. Questioning the said order, the writ petitioner has filed W.P.No.10349 of 1994.

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5. The learned single Judge, taking note of the Board Standing Order, has confirmed the order of the third respondent-District Revenue Officer, Villupuram District, however, issued direction to him for identifying three acres of land. Questioning the said order, present appeal is filed.

6. Learned counsel appearing for the appellants contended that inasmuch as the original writ petitioner himself made improvements, direction may be issued to the respondents for assignment of entire extent of 4.99 acres of land on payment of market value. The said request cannot be accepted in view of the admitted factual position, viz., the Board Standing Order does not permit the respondents to assign more than three acres of land. It is not the case of the appellants that except themselves, all other people in their village are having sufficient lands to eke out their livelihood. Apart from this, it is settled law that there cannot be any Mandamus to the Government/their officials contrary to the statutory provisions/Government orders etc., unless the said Government order is set aside in the manner known to law. In such circumstances, in view of the materials placed before us, we do not find any error or infirmity or valid ground for interference. In view of the fact that the original writ petitioner himself dug a Well in the assigned land, a direction is issued to the third respondent-the District Revenue Officer, Villupuram, to the effect that while identifying three acres of land as observed by the learned single Judge, the grievance of the writ petitioner may be taken note of and the said three acres are to be identified in the area, where the Well lies.

7. With the above direction, the writ appeal is dismissed. No costs.

raa

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1.The Secretary to Government,
State of Tamil Nadu,
Revenue Department,
Fort St. George, madras-9.

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2.The Special Commissioner and
Commissioner to Revenue Administration,
Chepauk, Madras.

3.The District Revenue Officer,
Villupuram, Villupuram District.

+ 1 cc to Mr. V. Raghavachari, Advocate SR No. 56797

+ 1 cc to the Government Pleader SR No. 56887

JRG(CO)
SR/13.12.2006 W.A.No.1522 of 2001

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